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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William K. Slate II

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ROPES & GRAY LLP
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EXAMINER

AUGUSTIN, EVENS J

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

12/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/990,402	SLATE ET AL.	
	Examiner	Art Unit	
	EVENS J. AUGUSTIN	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/21/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-44, 47-103, 119-130 and 133-162 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-44, 60-71, 47-103, 119-130 and 133-162 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgment

1. Request for Continued Examination under 37 CFR1.114, filed on 09/21/09, has been acknowledged. Claims 34-44 have been added. Claims 1-12, 15-44, 60-71, 47-103, 119-130 and 133-162 are pending.
2. The USPTO has considered applicant's arguments/remarks, however, the prior art from the previous office action is maintained because of any patentable distinction that may exist between and current and previous claim language is still unpatentable over the prior art.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12, 15-44, 60-71, 47-103, 119-130 and 133-162 are rejected under 35 U.S.C. 103(a) as being unpatentable over Israel et al. (U.S 6,766,307), in view of Landry et al. (U.S 20030014265).
5. As per claims 1-12, 15-44, 60-71, 47-103, and 119-130 and 133-162, Israel et al. discloses a system and method for providing dispute resolution management. The system utilizes software packages (application) (column 28, lines 39-50), and hardware combination

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(column 8, lines 48-57) for input (keyboard) and display (monitor), as resources to achieve its desired results. The system can:

- A. ("receiving an indication from a user to file a claim against at least one party using a first computer, wherein the claim comprises a request for a dispute management process between the user and the at least one party") -- Receive dispute resolution management request from users (column 2, line 44);
- B. ("providing the user with a first plurality of dispute management features at the first computer in response to receiving the indication at the first computer") -- Provide the options/features of the dispute resolution management from users (column 3, lines 26-30);
- C. ("assigning a case manager, to manage the dispute management process using a second computer in response to receiving the indication at the first computer, wherein managing the dispute management process comprises guiding the user and the at least one party through [[a]] the dispute resolution process"), ("providing the case manager with a second plurality of dispute management features at the second computer") -- The system has a program manager, which is equivalent to the case manager in question, that can include a plurality of selectable actions such as, for example and not limited hereby, adding users, modifying existing user data, transferring active cases from one user to another, activating users, modifying account registration data, browsing all disputes, generating detailed dispute reports, generating summary reports of disputes, browsing dispute resolution cases, as well as other actions which are used by a manager of non-judicial

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dispute resolutions, and any combination of one or more of the foregoing (col. 3, lines 13-24);

- D. ("notifying the case manager of the assignment") -- The Program Manager will be notified that the dispute(s) have been successfully transferred from one Program User to another (col. 13, lines 23-25). Therefore the program is entity that is different from the program users i.e., conflicting parties. The program manager is a user that has access to the system (col. 11, lines 60-62);
- E. ("wherein the second plurality of features comprises allowing the case manager to select a neutral ") -- Additionally, the program manager interacts with management module (col. 12, lines 7-15). The management module (a self-contained component that can provide a complete function to a system and can be interchanged with other modules that provides similar functions) is configured to transmit notices to each party to a dispute regarding a change in the status of the dispute, the input of additional data in relation to the dispute, the results of a query of the data contained within management module, or any other information relating to the dispute and/or for transmitting the dispute resolution data to the appropriate entity for mediation and/or arbitration (col.10, lines 13-20), in other words, managing the dispute resolution process;
- F. Computer system that offers dispute resolution through a third party mediator/arbitrator (column 19, lines 1-29), different from the disputing parties. The system guides the disputing parties through the process by allowing them to move seamlessly and uninterrupted through the process (column 19, lines 34-37)'

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- G. Receive indication of a selected neutral or third party i.e., mediator or arbitrator (column 19, lines 2-8);
- H. ("allowing the selected neutral to facilitate the dispute resolution process between the user and the at least one party using a third computer ") -- Allow third party to facilitate the dispute management process (column 19, lines 16-17);
- I. ("providing the user with access to a case filing application in response to receiving the indication from the user to filing file a claim") -- Have users as plaintiffs/claimants or defendants/respondents (column 4, line 42);
- J. Provide users with means to input registration data. This is equivalent to completing an on-line application form (column 9, lines 20-25);
- K. ("the indication indicates a dispute management feature for the dispute management application ") -- Receive request for and provide certain features of the dispute resolution management system (column 19, lines 43-47);
- L. ("providing the user with access to information relating to dispute management ");
("allowing the user to electronically search through the information"); ("wherein allowing the user to electronically search comprises receiving a keyword from the user") -- Provide users access with dispute management related information. Users can use electronically search the system using key words to find relevant information (column 19, lines 52-67);
- M. Provide users with contact information (e-mail) for mediators/arbitrators (column 5, lines 38-42)
- N. ("providing the user with a directory, wherein the directory includes contact information") -- Provide on-line (documents only) or off-line mediation/arbitration (on-

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call) (column 5, lines 7-9). For online mediation/arbitration, all relevant documents can be transmitted electronically (column 5, lines 29-30, 39-40). For off-line mediation/arbitration, some of the relevant documents can be sent be transmitted, on-line; the rest of the transmission can be done via fax, phone or video (column 5, lines 31-33 & 41-43);

- O. Provide users with access to mediators/arbitrators, if users choose this particular option (column 17, line 36-40)
- P. Provide users with additional information regarding the mediator/arbitrator officers (column 20, lines 44-52)
- Q. Receive dispute information from users (column 17, lines 5-7)
- R. Allow users to submit claim information (column 17, lines 5-7 & 44-50)
- S. Users can prioritize the viewing of their disputes, based on urgency level (column 18, lines 5-14)
- T. Provide dispute information to mediators/arbitrators (column 5, lines 24-31)
- U. Provide users with a preset period of time before the system logs them off (column 20, lines 65-66)
- V. Provide notifications to the arbitrators/mediators (column 17, lines 41-42)
- W. Provide users with discussion area for dispute related discussions via chat rooms and bulletin boards (column 4, line 14)
- X. Provide users access to disputes that they have submitted (column 19, lines 43-44)
- Y. Display all relevant information such as status or any recent activity (postings) of a dispute (column 22 lines 63-65)

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Z. Receive information from users regarding opposing parties or parties that have a conflict of interest with the dispute (column 16, lines 47-50)

AA. Allow users to create profiles (column 4, lines 37-38). The data for a particular profile can be stored and retrieved by users (column 28, lines 31-37) for the purpose of dispute prevention. The data can also be used for dispute resolution (column 4, lines 55-58)

6. Although Israel teaches a system that guides the user the process, Israel did not explicitly teach a system in which another user provides guidance/management or support to a dispute resolution system. However, Landry et al. describe an invention that relates to alternative dispute resolution ("ADR") services and, in particular, to a computer-implemented system and method of providing online dispute resolution ("ODR") services over a computer network. Landry describes a system in which a clerk monitors the system processes using monitoring service; this service enables the Clerk to verify the validity of the Arbitration/Mediation Clause (discussed below), and to generally provide support to parties during ODR processes (e.g., providing assistance in completing and submitting electronic forms. The Clerk accepts the registration of mediators and arbitrators 128 into the ODR System 60 using the arbitrator/mediator enrollment service (par. 30). The clerk, as described by Landry, performs the similar functions to the case manager described in the claimed invention.

7. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system that would employ a method/system in which another user provides guidance/management or support to a dispute resolution system. It would have been obvious to do so because it would provide the added benefit of having a human agent

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providing support and assistance to online system, which sometimes highly desirable by users of online or Internet systems.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 13-14, 72-73 and 131-132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Israel et al. (US 6,766,307 B1) and Landry et al. (U.S 20030014265), in view of Murray et al. (U.S 5,023,851).

10. As per claims 13-14, 72-73 and 131-132, Israel et al. discloses a dispute resolution management method/system that can:

BB. Receive dispute resolution management request from users (column 2, line 44)

CC. Provide the options/features of the dispute resolution management from users
(column 3, lines 26-30)

DD. Manage the dispute resolution management techniques/process (column 5, lines 59-63)

EE. Receive indication of a selected neutral or third party i.e., mediator or arbitrator (column 19, lines 2-8)

FF. Allow third parties to facilitate the dispute management process (column 19, lines 16-17)

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11. Israel and Landry did not explicitly describe a method/system in which the availability and selection of third party mediators/arbitrators is based on an on-line calendar. However, Murray et al describes a method for presenting electronic calendar information in an interactive information handling system, which employs a calendar program for displaying events and time slots available for the next event (column 9, lines 6-10). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system that would utilize an on-line calendar for the availability of mediators/arbitrators. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement an on-line, in order to minimize scheduling conflicts.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVENS J. AUGUSTIN whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-6779.

/Evens J. Augustin/
Evens J. Augustin
December 16, 2009
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